

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO. 11026 OF 1995

with

SPECIAL CIVIL APPLICATION NO. 2680 OF 1999

- 
1. Whether reporters of local papers may be allowed to see the judgment ?
  2. To be referred to the reporters or not ?
  3. Whether their lordships wish to see the fair copy of the judgment ?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950, or any order made thereunder ?
  5. Whether it is to be circulated to the Civil Judge?

-----

DILAWARBHAI JAFFAR BHAI GHORI  
VERSUS  
UNDER SECRETARY & ANR.

-----

Appearance:

(In SCA 11026/95)

None present for petitioner  
MR VB GHARANIA for respondents

(In SCA 2680/99)

MR IS SUPEHIA for petitioner  
None present for respondents

-----

Coram: MR.JUSTICE S.K. Keshote,J

C.A.V. JUDGMENT

#. As both these special civil applications are filed by one and the same petitioner in the matter of his suspension from services, the same are being taken up for hearing together and are being decided by this common order.

#. The facts of the case, in brief, are that the petitioner (under suspension) is an officer in S.S.Engineering College, Bhavnagar. Against him, a criminal case for the offences under Sections 323, 504, 506(2) of Indian Penal Code and Section 3(1) and 20 of the Atrocities Act has been filed in which he has been arrested. As a result of his arrest in the criminal case, he came to be placed under suspension by respondents under the order dated 13.12.95. That order was challenged by the petitioner in special civil application No.11026 of 1995. Though the matter has been admitted this Court has not considered it to be a fit case where operation of the order of suspension of the petitioner from services has to be stayed. So the prayer made for grant of interim relief was declined.

#. It is the case of petitioner that in the criminal case aforesaid, he has been acquitted by the Court of Additional Sessions Judge, Sabar Kantha, Camp Modasa, under its judgment dated 26th March 1998. It is further case of the petitioner that against the judgment of the learned trial court, no appeal has been preferred and no departmental inquiry has also been initiated against the petitioner. After his acquittal, the petitioner made several representations to the respondents for his reinstatement in service, but nothing has been done. Hence he filed second petition being special civil application No.2680 of 1999 in which prayer has been made for directions to the respondents to reinstate the petitioner in service and to treat the period of suspension as on duty for all purposes including revision of pay scale with effect from 1.1.96 and to pay the resultant amount with 12% interest from 1.4.98 till payment and also costs.

#. Perused the special civil application No.11026 of 1995 and heard the learned counsel for petitioner in special civil application No.2680 of 1999.

#. From the record of these two special civil applications, I find that the petitioner has been placed under suspension only because of his involvement in criminal case in which he has been arrested. On the record of the second petition there is a document to show prima-facie to the court that the petitioner has been acquitted in criminal case. In these facts, the respondent No.1 in the first petition was certainly under legal obligation to consider the case of the petitioner for reinstatement and to regularize his period of suspension. Reference in this respect may have to the provisions of the Bombay Civil Services Rules. That exercise has not been undertaken by respondent No.1 in the first petition. The petitioner, after his acquittal made representations to the respondents from time to time for his reinstatement and this act of respondents to sit tight or silent on these representations is difficult to appreciate but in fact it deserves to be deprecated. This approach of the State of Gujarat not to even respond to the representations filed by the employees, in this case by a Professor of Engineering College, is highly arbitrary and unjustified and it results in unnecessary and avoidable litigation before this Court. In case the petitioner has been acquitted in the criminal case and he was placed under suspension because of that criminal case, it was the duty of the respondent-State to itself suo-motu consider the matter rather than to wait for filing of representations by the petitioner. Worst position is that the petitioner filed representations but still those remained only as if they are waste papers which have to be put in dust-bin.

#. In the result, the special civil application No.11026 of 1995 is disposed of with directions to respondent No.1 to decide the case of the petitioner for his reinstatement in services after revoking his suspension as well as to regularize the period of his suspension within a period of one month from the date of receipt of Writ of this order in accordance with law. In case the petitioner's suspension cannot be revoked or he cannot be given all the benefits for suspension period by regularizing the same, a reasoned order may be passed and a copy of the same may be sent to the petitioner by registered post A.D. The special civil application No.11026 of 1995 and Rule therein stand disposed of in aforesaid terms with no order as to costs.

#. In view of the order made in special civil application No.11026 of 1995, no order in special civil application No.2680 of 1999. The special civil application No.2680 of 1999 is dismissed.

#. No order as to costs in both special civil applications.

(S.K.Keshote, J.)

[sunil]